***THE HON'BLE MR JUSTICE P.S.NARAYANA**

+WRIT PETITION No.25783 OF 2007

% 4-12-2007

Md.Hasnuddin .. Petitioner

And

$ The State of A.P.,
Rep. by The Chief Registrar (Births & Deaths)
Department of Medical and Health (Vital Statistics)
Hyderabad and another ..
Respondents

<GIST:

>HEAD NOTE:

! Counsel for appellant : Mr.G. Rajesham

^ Counsel for respondents : A.G.P. for Medical and Health

?CASES REFERRED:- NIL

THE HON'BLE SRI JUSTICE P.S.NARAYANA

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Date: 4th December, 2007

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ORDER:-

Heard Sri G.Rajesham, the Counsel representing the writ petitioner and the learned A.G.P. for Medical and Health.

2. The matter is coming up for *admission.*

3. The Writ Petition is filed for a Writ of Mandamus declaring the action and interpretation of the 2nd respondent in his proceedings in REF:HY/TA/EO/2007, dt.17-11-2007, as illegal, arbitrary and consequently set aside the same and direct the 2nd respondent herein to enter the name of the petitioner son's as Mentioned.Moizuddin in the Birth Register and issue Birth Certificates in the name of petitioner's son in the interest of justice.

4. It is stated by the petitioner that his son by name Md.Moizuddin was studied B.Com., (Computer) from Osmania University, Hyderabad in the year 2007 and that

he applied for VISA for further studies in foreign countries and his date of birth was recorded in all the certificates as 5-12-1984. The petitioner further averred that his son was born on 5-12-1984 in the Hospital and a birth certificate was issued by the Hospital authorities without mentioning his name as he was not named at that time and also stated that the 2nd respondent in its records also registered the date of birth of his son without mentioning his name. Further it is averred that on 21-8-2007, the petitioner made a representation to the 2nd respondent requesting him to issue date of birth certificates to his son stating that the birth certificate is necessary for further studies. It is also stated that the respondent replied through REF:HY/TA/EO/2007, dt.17-11-2007 stating that *"birth of a baby child was registered in our records without the name of the child, since you are furnishing the information regarding the name of the Male Child beyond 15 years prescribed time. Therefore your request for registration and issue of Birth Certificate cannot be considered as per Section 14 of the Registration of Birth & Death Act, 1969."* Further it is stated by the petitioner that the rejection of his representation to issue of date of birth certificates to his sons by the 2nd respondent is illegal and violation of natural justice and liable to be set aside. Further it is stated that the Registration of Birth and Death Act, 1969 which there is nothing in the Act, which precludes or prohibits the registering authority to enter the name of the person in the birth certificate even at a

subsequent stage and the same fact reported in the Judgment of Gujarat High Court in the case of ***DIPIKA ARVINDKUR PANCHOLI v. STATE OF GUJRAT (AIR 2003 Gujarat 102)*** and that the Gujrat High Court took the view that, it is permissible under the Act and Rules to enter the name of a person even after fifteen years, if the identity of the person is not in dispute. Further it is stated by the petitioner that the date of birth certificate is necessary to his son to apply further studies in foreign countries and it is necessary to enter his son's name in the register of 2nd respondent office and also averred that as per the records of the 2nd respondent his son's date of birth was recorded in the official register without mentioning his name. The petitioner further averred that in all educational certificates issued by the Competent Authority including Transfer Certificate his son's name and date of birth was shown as Md.Moizuddin and his date of birth is 5-12-1984. It is further averred by the petitioner that if the 2nd respondent had not entered his son's name in the Register and not issued birth certificate to his son, he would be prevented from higher studies. It is also stated that in similar circumstances this Court in W.P.No.13107/07 dt.16-7-2007, filed by Syed Ismail, allowed the Writ Petition directing the 2nd respondent to consider the case of the petitioner's son and enter the name of his son in the birth certificate within a period of four weeks from the date of receipt of making the fresh application. In such circumstances, the writ petitioner

approached this Court by filing the present Writ Petition.

5. The order made by the learned Judge of this Court in W.P.No.13107/2007 dt.6-7-2007 is placed before this Court. The learned Judge referred to ***DIPIKA ARVINDKUR PANCHOLI v. STATE OF GUJRAT (AIR 2003 Gujarat 102)*** and disposed of the Writ Petition as hereunder:-

> *"Having regard to the provisions of the Act and the Judgment of the Gujrat High Court, this Court finds that the second respondent ought to have considered the application of the petitioner and entered the name of his son in the certificate, after satisfying himself as to the identity.*
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> *Hence, the Writ Petition is disposed of, directing the 2nd respondent to consider the application of the petitioner and enter the name of his son in the birth certificate, after satisfying himself that the certificate relates to the person, whose name is sought to be entered. For this purpose, the candidate, whose date of birth is entered shall appear before the second respondent, file an application and prove his identity. It shall be open to the second respondent to receive any further or additional information or material. This action shall be completed, within a period of four weeks from the date of receipt of making the fresh application, as indicated above. There shall be no order as to costs."*

6. In the light of the same, the present Writ Petition is disposed of directing the 2nd respondent to consider the application of the petitioner and enter the name of his son in the birth certificate, after satisfying himself that the

certificate relates to the person, whose name is sought to be entered. For this purpose, the candidate, whose date of birth is entered shall appear before the second respondent, file an application and prove his identity. It shall be open to the second respondent to receive any further or additional information or material. This action shall be completed, within a period of four weeks from the date of receipt of making the fresh application, as indicated above. There shall be no order as to costs.

Justice P.S.Narayana

4th December, 2007

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